

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GENENTECH, INC.,

Plaintiffs,

v.

AMGEN INC.,

Defendant.

C.A. No. 18-924-CFC-SRF

~~FILED UNDER SEAL~~

**STIPULATION AND ~~PROPOSED~~ ORDER VACATING
PRETRIAL AND TRIAL DEADLINES**

WHEREAS Amgen relies on the services of Epiq Systems, Inc. (“Epiq”) as its host for all documents produced by Genentech, Amgen, and third parties in this litigation;

WHEREAS Epiq experienced a complete and total system-wide interruption of all services (the “Epiq outage”) beginning the morning of Saturday, February 29, 2020 (see attached Declaration of Olivia Cutler, Epiq Project Director);

WHEREAS, as a result of the Epiq outage, Amgen has had no access to any production documents hosted by Epiq since the morning of February 29;

WHEREAS the current deadline for serving Amgen’s damages expert rebuttal reports is March 18, 2020;

WHEREAS the current deadline for completing damages expert discovery is March 27, 2020;

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WHEREAS the current deadline for opening *Daubert* motions is April 1, 2020;

WHEREAS trial is set to begin on April 20, 2020;

WHEREAS the Epiq outage has prevented Amgen from meeting the current deadlines for completing damages discovery and pre-trial exchanges;

WHEREAS Epiq has been and remains unable to provide any definitive timeline regarding when its services and access to production documents will be restored to Amgen;

WHEREAS Genentech is reproducing all documents to Amgen's new vendor, Kroll, but the reproduced documents will not be processed and available until late March, and once available, will not include Amgen's attorney work product that was developed over the course of the litigation, and would need to be at least partially redeveloped in the event that Epiq's systems remain offline;

NOW THEREFORE, it is hereby stipulated and agreed by the Parties, subject to the approval of the Court, that:

Genentech, Inc. and Amgen Inc. jointly request that the Court vacate the April 20, 2020 trial date;

Genentech, Inc. and Amgen Inc. jointly request that the Court suspend all interim deadlines for the parties' pretrial exchanges until a new trial date is set;

Genentech, Inc. and Amgen Inc. hereby stipulate and agree, subject to the approval of the Court, that the deadline for Amgen to serve rebuttal money damages expert reports be reset from March 18, 2020 to the earlier of (i) 18 days after Epiq provides full access to its reconstituted database of production documents in this case and Amgen's IT Security Department certifies that Epiq's systems are safe to access; or (ii) 28 days after Genentech confirms in writing that its reproduction of all document productions in this case is complete and all production volumes have been delivered to Amgen's new vendor, Kroll; and

Genentech, Inc. and Amgen Inc. will jointly engage the Court no later than April 17, 2020, to propose deadlines for all remaining pre-trial exchanges and to discuss a new trial date, which the parties agree will be no earlier than July 27, 2020, to allow Amgen a reasonable opportunity to rebuild its document review work product if it is necessary for Amgen to rely on the reproduction of documents hosted by Kroll.

MCCARTER & ENGLISH, LLP

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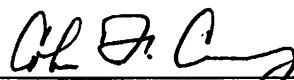
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Attorneys for Defendant Amgen Inc.

Dated: March 13, 2020

SO ORDERED this 16th day of March, 2020.



United States District Judge